

1 ROSS B. JONES, SBN 120593  
2 Merrill, Arnone & Jones, LLP  
3 3554 Round Barn Boulevard, Suite 303  
Santa Rosa, California 95403  
3 Telephone: (707) 528-2882  
4 Facsimile: (707) 528-6015

5 Attorneys for Defendants  
6 HEDMARK VIII, LLC and  
WESTLAND FINANCIAL III, LLC

7  
8  
9  
10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 DOUGLAS KEANE.

CASE NO.

13 Plaintiff.

14 vs.

15 ATLAS HOSPITALITY GROUP,  
HEDMARK VIII, LLC and  
16 WESTLAND FINANCIAL III, LLC and  
JUSTIN B. MEYERS.

**NOTICE OF REMOVAL OF  
ACTION;  
UNDER 28 U.S.C. § 1441(b)  
(FEDERAL QUESTION)**

17  
18 Defendants.

19  
20 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

21 PLEASE TAKE NOTICE that defendants HEDMARK VIII, LLC and  
22 WESTLAND FINANCIAL III, LLC hereby removes to this Court the state court action  
23 described below.

24  
25 1. On October 22, 2007 an action was commenced in the Superior Court of  
the State of California in and for the City of Santa Rosa, County of Sonoma, entitled  
26 DOUGLAS KEANE, Plaintiff v. ATLAS HOSPITALITY GROUP, HEDMARK VIII,  
27 LLC, WESTLAND FINANCIAL GROUP III, LLC and JUSTIN B. MEYERS  
28 Defendants, as case number SCV-241706 hereto as Exhibit "A."

1           2.     The first date upon which defendants received a copy of the said Complaint  
2 was November 1, 2007, when defendants were served with a copy of the said Complaint  
3 and a Summons from the said state court. A copy of the Summons is attached hereto as  
4 Exhibit "B."

5       3.     This action is a civil action of which this Court has original jurisdiction  
6 under 28 U.S.C. §1331, and is one which may be removed to this Court by defendants  
7 pursuant to the provision of 28 U.S.C. §1441(b) in that it arises under the Copyright Act  
8 (17 U.S.C. §101 et. seq.) which grants exclusive jurisdiction to federal district courts over  
9 civil actions arising under the Copyright Act. 17 U.S.C. §301. Plaintiff's claims under  
10 Calif. Civil Code §3344 and common law right-to-privacy claims arise from the alleged  
11 publication of purportedly copyrighted materials (attached as Exhibit 1 to the Complaint),  
12 which copyrights are owned either by the listed publications or by Cyrus Restaurant

13       4. All other defendants who have been served with Summons and Complaint  
14 have joined in this Notice of Removal, as evidenced by the Joinders of defendants  
15 ATLAS HOSPITALITY GROUP, INC, and JUSTIN B. MEYERS, filed concurrently  
16 herewith.

17 DATED: 1/30/07  
18

MERRILL, ARNONE & JONES, LLP

ROSS B. JONES,  
Attorney for Defendants

11/01/2007 11:30 FAX 4153885080

BRIAN

10/19/2007 14:20 FAX 4153985080

BRITAN

4 002/026

002/026

Christopher J. Keane (SB# 194848)  
530 Jackson Street, Second Floor  
San Francisco, CA 94133  
Telephone: (415) 398-2777  
Fax: (415) 520-2282  
E-mail: [cokane@kennelaw.com](mailto:cokane@kennelaw.com)  
Attorney for Plaintiff

6 Brian J. Larsen (SBA# 158252)  
7 530 Jackson Street, Second Floor  
8 San Francisco, CA 94133  
9 Telephone: (415) 398-5000  
10 Fax: (415) 398-5080  
E-mail: [blarsen5000@yahoo.com](mailto:blarsen5000@yahoo.com)  
11 Attorney for Plaintiff

**ENDORSED  
FILED**

OCT 22 2007

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SONOMA

6 DOUGLAS KRANE

**Plaintiff.**

v

Case No.:

**VERIFIED COMPLAINT FOR  
DAMAGES AND DEMAND FOR  
JURY TRIAL**

ATLAS HOSPITALITY GROUP,  
HEDMARK VIII, L.L.C.,  
WESTLAND FINANCIAL III, L.L.C.,  
JUSTIN B. MYERS and  
DOES 1 to 100.

**Defendant(s)**

### Violations of California Civil Code § 3344

## Appropriation of Right of Publicity for Commercial Purposes

BY FAX

**COMPLAINT & JURY DEMAND**

### Competitor and Early Demand

11218923.tif - 10/19/2007 3:24:07 PM  
11619518.tif - 11/1/2007 12:34:50 PM

**EXHIBIT A**

1 NOW COMES Plaintiff, DOUGLAS KEANE, by and through his lawyers, and complains  
2 against Defendants, ATLAS HOSPITALITY GROUP, HEDMARK VIII, L.L.C.,  
3 WESTLAND FINANCIAL III, L.L.C., JUSTIN B. MYERS and DOES 1-100, inclusive, as  
4 follows:  
5  
6

7 **FIRST CAUSE OF ACTION**  
8 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

9 1. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a  
10 California corporation, with its principal place of business located at 2500 Michelson, Suite  
11 110, Irvine, California 92612.  
12  
13 2. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada  
14 limited liability company, with its principal place of business located in Sonoma County at  
15 the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,  
16 California.  
17  
18 3. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a  
19 Nevada limited liability company, with its principal place of business located in Sonoma  
20 County at the Les Mars Hotel which it owned and/or operated at 27 North Street,  
21 Healdsburg, California.  
22  
23 4. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,  
24 who at all times pertinent to this action worked within the course and scope of his employment for  
25 Defendant, Atlas Hospitality Group.  
26  
27  
28

1 5. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether  
2 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time  
3 of filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will  
4 ask leave of court to amend this Complaint to show their true names or capacities when the same  
5 have been ascertained. Plaintiff, Douglas Keane, is informed and believes, and thercon alleges, that  
6 each of the DOE Defendants is, in some manner, responsible for the events and happenings herein  
7 set forth and proximately caused injury and damages to him, as herein alleged.

8

9

10 6. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of  
11 Healdsburg, California.

12

13

14 7. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time, Defendants,  
15 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
16 Myers and Does 1-100, authorized, created, published and/or distributed within California,  
17 and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page  
18 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00,  
19 entitled "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred  
20 to in this Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les  
21 Mars Hotel for \$13,500,000.00")

22

23 8. On page seventeen (17), line four (4), the Defendants, Atlas Hospitality Group, Hedmark  
24 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly  
25 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or  
26 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "Chef Douglas  
27 Keane (Rising Star Chef SF Chronicle 2002 and Maitre d' Nick Peyton (the godfather of  
28 white tablecloth dining" SF Chronicle 5/2/2003) offer their contemporary luxury cuisine in a  
completely flexible prix fixe format of three to five dishes." (See attached Exhibit 1, which

1 is pp. 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the  
2 Les Mars Hotel for \$13,500,000.00)

3  
4 9. Plaintiff, Douglas Keane, never consented to the use of his name on page seventeen (17),  
5 line four (4) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars  
6 Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality  
7 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does  
8 1-100.

9  
10 10. The knowing use of Douglas Keane's name on page seventeen (17), line four (4), of the  
11 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
12 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
13 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil  
14 Code § 3344.

15  
16 11. The knowing use of Douglas Keane's name on page seventeen (17), line four (4), of the  
17 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
18 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
19 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly  
20 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount  
21 within the unlimited jurisdiction of the superior court as a result thereof, including but not  
22 limited to injury to reputation, humiliation, inconvenience, mental suffering, emotional  
23 distress, loss of income, attorney fees and other costs.

24  
25 12. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,  
26 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with  
27 respect to their knowing use of Douglas Keane's name without his consent and without  
28 compensating him for the use of his name on page seventeen (17), line four (4), of the

1 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
2 \$13,500,000.00".

3  
4 13. There was no public interest in any of the Defendants using Douglas Kcane's name and/or  
5 photograph in the aforementioned advertisement; rather, it was solely for the Defendants'  
6 own financial gain.

7  
8 14. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or  
9 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,  
10 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

11  
12 15. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive  
13 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C.,  
14 Justin B. Myers and Westland Financial III, L.L.C. and Does 1-100.

15  
16 16. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
17 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
18 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual  
19 damages suffered by him as a result of the aforementioned unauthorized use of his name on  
20 page seventeen (17), line four (4), of the "Advertisement to Purchase and/or Solicitation to  
21 purchase the Les Mars Hotel for \$13,500,000.00".

22  
23 17. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
24 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
25 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of  
26 his name on page seventeen (17), line four (4), of the "Advertisement to Purchase and/or  
27 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable  
28 to the use.

1  
2 18. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
3 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
4 Myers and Does 1-100, be found liable to him for attorney fees and costs.

5  
6 19. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

7  
8 **SECOND CAUSE OF ACTION**  
**(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

9  
10 20. Plaintiff incorporates by reference paragraphs (1) through (19) as though set forth herein in  
11 full.

12  
13 21. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a  
14 California corporation, with its principal place of business located at 2500 Michelson, Suite  
15 110, Irvine, California 92612.

16  
17 22. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada  
18 limited liability company, with its principal place of business located in Sonoma County at  
19 the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,  
20 California.

21  
22 23. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a  
23 Nevada limited liability company, with its principal place of business located in Sonoma  
24 County at the Les Mars Hotel which it owned and/or operated at 27 North Street,  
25 Healdsburg, California.

1 24. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,  
2 who at all times pertinent to this action worked within the course and scope of his employment for  
3 Defendant, Atlas Hospitality Group.

5  
6 25. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether  
7 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time  
8 of filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will  
9 ask leave of court to amend this Complaint to show their true names or capacities when the same  
10 have been ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that  
11 each of the DOE Defendants is, in some manner, responsible for the events and happenings herein  
12 set forth and proximately caused injury and damages to him, as herein alleged.

14  
15 26. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of  
16 Healdsburg, California.

18  
19 27. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time, Defendants,  
20 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
21 Myers and Does 1-100, authorized, created, published and/or distributed within California,  
22 and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page  
23 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00,  
24 entitled "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred  
25 to in this Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les  
26 Mars Hotel for \$13,500,000.00")

27  
28 28. On page eighteen (18), line five (5), the Defendants, Atlas Hospitality Group, Hedmark  
VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly

1 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or  
2 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "If you want to  
3 find the next superstar chef, look no farther than Douglas Keane, who is proving his mettle  
4 each night at Cyrus in Healdsburg." (See attached Exhibit 1, which is pp. 1, 3, 4, 17 and 18  
5 of the Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
6 \$13,500,000.00)

7  
8 29. Plaintiff, Douglas Keane, never consented to the use of his name on page eighteen (18), line  
9 five (5) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars  
10 Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality  
11 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does  
12 1-100.

13  
14 30. The knowing use of Douglas Keane's name on page eighteen (18), line five (5), of the  
15 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
16 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
17 Westland Financial III, L.L.C. and Does 1-100, violates California Civil Code § 3344.

18  
19 31. The knowing use of Douglas Keane's name on page eighteen (18), line five (5), of the  
20 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
21 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
22 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly  
23 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount  
24 within the unlimited jurisdiction of the superior court as a result thereof, including but not  
25 limited to injury to reputation, humiliation, inconvenience, mental suffering, emotional  
26 distress, loss of income, attorney fees and other costs.

1 32. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,  
2 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with  
3 respect to their knowing use of Douglas Keane's name without his consent and without  
4 compensating him for the use of his name on page eighteen (18), line five (5), of the  
5 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
6 \$13,500,000.00".

7  
8 33. There was no public interest in any of the Defendants using Douglas Keane's name and/or  
9 photograph in the aforementioned advertisement; rather, it was solely for their own financial  
10 gain.

11  
12 34. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or  
13 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,  
14 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

15  
16 35. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive  
17 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C.  
18 and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

19  
20 36. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
21 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
22 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual  
23 damages suffered by him as a result of the aforementioned unauthorized use of his name on  
24 page eighteen (18), line five (5), of the "Advertisement to Purchase and/or Solicitation to  
25 purchase the Les Mars Hotel for \$13,500,000.00".

26  
27 37. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
28 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.

1 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of  
2 his name on page eighteen (18), line five (5), of the "Advertisement to Purchase and/or  
3 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable  
4 to the use.

5  
6 38. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
7 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
8 Myers and Does 1-100, be found liable to him for attorney fees and costs.

9  
10 39. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

11  
12 **THIRD CAUSE OF ACTION**  
**(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

13  
14 40. Plaintiff incorporates by reference paragraphs (1) through (39) as though set forth herein in  
15 full.

16  
17 41. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a  
18 California corporation, with its principal place of business located at 2500 Michelson, Suite  
19 110, Irvine, California 92612.

20  
21 42. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada  
22 limited liability company, with its principal place of business located in Sonoma County at  
23 the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,  
24 California.

25  
26 43. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a  
27 Nevada limited liability company, with its principal place of business located in Sonoma

1 County at the Les Mars Hotel which it owned and/or operated at 27 North Street.  
2 Healdsburg, California.

3  
4 44. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,  
5 who at all times pertinent to this action worked within the course and scope of his employment for  
6 Defendant, Atlas Hospitality Group.

7  
8  
9 45. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether  
10 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time  
11 of filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will  
12 ask leave of court to amend this Complaint to show their true names or capacities when the same  
13 have been ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that  
14 each of the DOE Defendants is, in some manner, responsible for the events and happenings herein  
15 set forth and proximately caused injury and damages to him, as herein alleged.

16  
17  
18 46. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of  
19 Healdsburg, California.

20  
21  
22 47. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time, Defendants,  
23 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
24 Myers and Does 1-100, authorized, created, published and/or distributed within California,  
25 and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page  
26 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00,  
27 entitled "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred  
28 to in this Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les  
Mars Hotel for \$13,500,000.00")

1

2 48. On page eighteen (18), line ten (10), the Defendants, Atlas Hospitality Group, Hedmark

3 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly

4 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or

5 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "When I

6 reviewed the restaurant a few months after it opened, it was evident that Keane was cooking

7 at a level that put him in an elite pantheon of chefs." (See attached Exhibit 1, which is pp. 1,

8 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the Les

9 Mars Hotel for \$13,500,000.00)

10

11 49. Plaintiff, Douglas Keane, never consented to the use of his name on page eighteen (18), line

12 ten (10) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars

13 Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality

14 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does

15 1-100.

16

17 50. The knowing use of Douglas Keane's name on page eighteen (18), line ten (10), of the

18 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for

19 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and

20 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil

21 Code § 3344.

22

23 51. The knowing use of Douglas Keane's name on page eighteen (18), line ten (10), of the

24 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for

25 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and

26 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly

27 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount

28 within the unlimited jurisdiction of the superior court as a result thereof, including but not

1 limited to injury to reputation, humiliation, inconvenience, mental suffering, emotional  
2 distress, loss of income, attorney fees and other costs.

3  
4 52. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,  
5 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with  
6 respect to their knowing use of Douglas Keane's name without his consent and without  
7 compensating him for the use of his name on page eighteen (18), line ten (10), of the  
8 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
9 \$13,500,000.00".

10  
11 53. There was no public interest in any of the Defendants using Douglas Keane's name and/or  
12 photograph in the aforementioned advertisement; rather, it was solely for their own financial  
13 gain.

14  
15 54. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or  
16 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,  
17 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

18  
19 55. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive  
20 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C.  
21 and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

22  
23 56. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
24 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
25 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual  
26 damages suffered by him as a result of the aforementioned unauthorized use of his name on  
27 page eighteen (18), line ten (10), of the "Advertisement to Purchase and/or Solicitation to  
28 purchase the Les Mars Hotel for \$13,500,000.00".

1  
2 57. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
3 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
4 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of  
5 his name on page eighteen (18), line ten (10), of the "Advertisement to Purchase and/or  
6 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable  
7 to the use.

8  
9 58. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
10 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
11 Myers and Does 1-100, be found liable to him for attorney fees and costs.

12  
13 59. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

14  
15 **FOURTH CAUSE OF ACTION**  
16 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

17  
18 60. Plaintiff incorporates by reference paragraphs (1) through (59) as though set forth herein in  
19 full.

20  
21 61. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a  
22 California corporation, with its principal place of business located at 2500 Michelson, Suite  
23 110, Irvine, California 92612.

24  
25 62. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada  
26 limited liability company, with its principal place of business located in Sonoma County at  
27 the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,  
28 California.

1 63. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a  
2 Nevada limited liability company, with its principal place of business located in Sonoma  
3 County at the Les Mars Hotel which it owned and/or operated at 27 North Street,  
4 Healdsburg, California.

5  
6 64. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,  
7 who at all times pertinent to this action worked within the course and scope of his employment for  
8 Defendant, Atlas Hospitality Group.

9  
10 65. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether  
11 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time  
12 of filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will  
13 ask leave of court to amend this Complaint to show their true names or capacities when the same  
14 have been ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that  
15 each of the DOE Defendants is, in some manner, responsible for the events and happenings herein  
16 set forth and proximately caused injury and damages to him, as herein alleged.

17  
18 66. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of  
19 Healdsburg, California.

20  
21 67. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time, Defendants,  
22 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
23 Myers and Does 1-100, authorized, created, published and/or distributed within California,  
24 and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page  
25 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00,  
26 entitled "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred  
27  
28

1 to in this Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les  
2 Mars Hotel for \$13,500,000.00")

3  
4 68. On page eighteen (18), line twenty (20), the Defendants, Atlas Hospitality Group, Hedmark  
5 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly  
6 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or  
7 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "[S]urrender  
8 yourself to the masterful hands of chef Douglas Keane." (See attached Exhibit 1, which is  
9 pp. 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the  
10 Les Mars Hotel for \$13,500,000.00)

11  
12 69. Plaintiff, Douglas Keane, never consented to the use of his name on page eighteen (18), line  
13 twenty (20) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars  
14 Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality  
15 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does  
16 1-100.

17  
18 70. The knowing use of Douglas Keane's name on page eighteen (18), line twenty (20), of the  
19 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
20 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
21 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil  
22 Code § 3344.

23  
24 71. The knowing use of Douglas Keane's name on page eighteen (18), line twenty (20), of the  
25 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
26 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
27 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly  
28 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount

1 within the unlimited jurisdiction of the superior court as a result thereof, including but not  
2 limited to injury to reputation, humiliation, inconvenience, mental suffering, emotional  
3 distress, loss of income, attorney fees and other costs.

4

5 72. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,  
6 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with  
7 respect to their knowing use of Douglas Keane's name without his consent and without  
8 compensating him for the use of his name on page eighteen (18), line twenty (20), of the  
9 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
10 \$13,500,000.00".

11

12 73. There was no public interest in any of the Defendants using Douglas Keane's name and/or  
13 photograph in the aforementioned advertisement; rather, it was solely for their own financial  
14 gain.

15

16 74. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or  
17 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,  
18 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

19

20 75. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive  
21 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C.  
22 and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

23

24 76. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
25 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
26 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual  
27 damages suffered by him as a result of the aforementioned unauthorized use of his name on  
28

1 page eighteen (18), line twenty (20), of the "Advertisement to Purchase and/or Solicitation  
2 to purchase the Les Mars Hotel for \$13,500,000.00".

3  
4 77. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
5 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
6 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of  
7 his name on page eighteen (18), line twenty (20), of the "Advertisement to Purchase and/or  
8 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable  
9 to the use.

10  
11 78. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
12 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
13 Myers and Does 1-100, be found liable to him for attorney fees and costs.

14  
15 79. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

16  
17 **FIFTH CAUSE OF ACTION**  
18 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

19 80. Plaintiff incorporates by reference paragraphs (1) through (79) as though set forth herein in  
20 full.

21  
22 81. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a  
23 California corporation, with its principal place of business located at 2500 Michelson, Suite  
24 110, Irvine, California 92612.

25  
26 82. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada  
27 limited liability company, with its principal place of business located in Sonoma County at

1 the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,  
2 California.

3  
4 83. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a  
5 Nevada limited liability company, with its principal place of business located in Sonoma  
6 County at the Les Mars Hotel which it owned and/or operated at 27 North Street,  
7 Healdsburg, California.

8  
9 84. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,  
10 who at all times pertinent to this action worked within the course and scope of his employment for  
11 Defendant, Atlas Hospitality Group.

12  
13  
14 85. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether  
15 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time  
16 of filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will  
17 ask leave of court to amend this Complaint to show their true names or capacities when the same  
18 have been ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that  
19 each of the DOE Defendants is, in some manner, responsible for the events and happenings herein  
20 set forth and proximately caused injury and damages to him, as herein alleged.

21  
22  
23 86. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of  
24 Healdsburg, California.

25  
26  
27 87. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time, Defendants,  
28 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
Myers and Does 1-100, authorized, created, published and/or distributed within California,

1 and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page  
2 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00,  
3 entitled "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred  
4 to in this Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les  
5 Mars Hotel for \$13,500,000.00")

6  
7 88. On page eighteen (18), line twenty-two (22), the Defendants, Atlas Hospitality Group,  
8 Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100,  
9 knowingly used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase  
10 and/or Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "With  
11 that introduction to Douglas Keane's seriously decadent cooking, you begin to understand  
12 why Healdsburg has become such a wine-country destination." (See attached Exhibit 1,  
13 which is pp. 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to  
14 purchase the Les Mars Hotel for \$13,500,000.00)

15  
16 89. Plaintiff, Douglas Keane, never consented to the use of his name on page eighteen (18), line  
17 twenty-two (22) of the "Advertisement to Purchase and/or Solicitation to purchase the Les  
18 Mars Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality  
19 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does  
20 1-100.

21  
22 90. The knowing use of Douglas Keane's name on page eighteen (18), twenty-two (22), of the  
23 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
24 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
25 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil  
26 Code § 3344.

1 91. The knowing use of Douglas Keane's name on page eighteen (18), twenty-two (22), of the  
2 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
3 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
4 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly  
5 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount  
6 within the unlimited jurisdiction of the superior court as a result thereof, including but not  
7 limited to injury to reputation, humiliation, inconvenience, mental suffering, emotional  
8 distress, loss of income, attorney fees and other costs.

9  
10 92. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,  
11 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with  
12 respect to their knowing use of Douglas Keane's name without his consent and without  
13 compensating him for the use of his name on page eighteen (18), twenty-two (22), of the  
14 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
15 \$13,500,000.00".

16  
17 93. There was no public interest in any of the Defendants using Douglas Keane's name and/or  
18 photograph in the aforementioned advertisement; rather, it was solely for their own financial  
19 gain.

20  
21 94. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or  
22 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,  
23 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

24  
25 95. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive  
26 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C.  
27 and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

1 96. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
2 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
3 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual  
4 damages suffered by him as a result of the aforementioned unauthorized use of his name on  
5 page eighteen (18), line twenty-two (22), of the "Advertisement to Purchase and/or  
6 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00".

7  
8 97. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
9 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
10 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of  
11 his name on page eighteen (18), line twenty-two (22), of the "Advertisement to Purchase  
12 and/or Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are  
13 attributable to the use.

14  
15 98. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
16 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
17 Myers and Does 1-100, be found liable to him for attorney fees and costs.

18  
19 99. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

20  
21 **SIXTH CAUSE OF ACTION**  
22 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

23 100. Plaintiff incorporates by reference paragraphs (1) through (99) as though set forth herein  
24 in full.

25  
26 101. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a  
27 California corporation, with its principal place of business located at 2500 Michelson, Suite  
28 110, Irvine, California 92612.

1  
2 102. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada  
3 limited liability company, with its principal place of business located in Sonoma County at the  
4 Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg, California.

5  
6 103. Defendant, Wesland Financial III, L.L.C. is and was at all times pertinent to this action a  
7 Nevada limited liability company, with its principal place of business located in Sonoma  
8 County at the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,  
9 California.

10  
11 104. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,  
12 who at all times pertinent to this action worked within the course and scope of his employment for  
13 Defendant, Atlas Hospitality Group.

14  
15  
16 105. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether  
17 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time of  
18 filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will ask leave  
19 of court to amend this Complaint to show their true names or capacities when the same have been  
20 ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that each of the  
21 DOE Defendants is, in some manner, responsible for the events and happenings herein set forth and  
22 proximately caused injury and damages to him, as herein alleged.

23  
24  
25 106. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of  
26 Healdsburg, California.

1 107. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time,  
2 Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C.,  
3 Justin B. Myers and Does 1-100, authorized, created, published and/or distributed within  
4 California, and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page  
5 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00, entitled  
6 "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred to in this  
7 Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les Mars Hotel  
8 for \$13,500,000.00")

9  
10 108. On page eighteen (18), line twenty-nine (29), the Defendants, Atlas Hospitality Group,  
11 Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100,  
12 knowingly used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or  
13 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "Keane proves that  
14 great cooking is foremost tasty cooking, not just wacky experiments at the guests' expense."  
15 (See attached Exhibit 1, which is pp. 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or  
16 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00)

17  
18 109. Plaintiff, Douglas Keane, never consented to the use of his name on page eighteen (18),  
19 line twenty-nine (29) of the "Advertisement to Purchase and/or Solicitation to purchase the Les  
20 Mars Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality  
21 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-  
22 100.

23  
24 110. The knowing use of Douglas Keane's name on page eighteen (18), twenty-nine (29), of the  
25 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
26 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
27 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil Code  
28 § 3344.

1  
2 111. The knowing use of Douglas Keane's name on page eighteen (18), twenty-nine (29), of the  
3 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
4 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
5 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly  
6 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount within the  
7 unlimited jurisdiction of the superior court as a result thereof, including but not limited to injury  
8 to reputation, humiliation, inconvenience, mental suffering, emotional distress, loss of income,  
9 attorney fees and other costs.

10  
11 112. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,  
12 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with  
13 respect to their knowing use of Douglas Keane's name without his consent and without  
14 compensating him for the use of his name on page eighteen (18), twenty-nine (29), of the  
15 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
16 \$13,500,000.00".

17  
18 113. There was no public interest in any of the Defendants using Douglas Keane's name and/or  
19 photograph in the aforementioned advertisement; rather, it was solely for their own financial  
20 gain..

21  
22 114. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or  
23 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,  
24 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

25  
26 115. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive  
27 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
28 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

1  
2 116. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
3 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
4 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual damages  
5 suffered by him as a result of the aforementioned unauthorized use of his name on page  
6 eighteen (18), line twenty-nine (29), of the "Advertisement to Purchase and/or Solicitation to  
7 purchase the Les Mars Hotel for \$13,500,000.00".

8  
9 117. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
10 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
11 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of his  
12 name on page eighteen (18), line twenty-nine (29), of the "Advertisement to Purchase and/or  
13 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable to  
14 the use.

15  
16 118. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
17 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
18 Myers and Does 1-100, be found liable to him for attorney fees and costs.

19  
20 119. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

21  
22 **SEVENTH CAUSE OF ACTION**  
23 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

24 120. Plaintiff incorporates by reference paragraphs (1) through (119) as though set forth herein  
25 in full.

1 121. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a  
2 California corporation, with its principal place of business located at 2500 Michelson, Suite  
3 110, Irvine, California 92612.

4

5 122. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada  
6 limited liability company, with its principal place of business located in Sonoma County at the  
7 Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg, California.

8

9 123. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a  
10 Nevada limited liability company, with its principal place of business located in Sonoma  
11 County at the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,  
12 California.

13

14 124. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,  
15 who at all times pertinent to this action worked within the course and scope of his employment for  
16 Defendant, Atlas Hospitality Group.

17

18  
19 125. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether  
20 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time of  
21 filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will ask leave  
22 of court to amend this Complaint to show their true names or capacities when the same have been  
23 ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that each of the  
24 DOE Defendants is, in some manner, responsible for the events and happenings herein set forth and  
25 proximately caused injury and damages to him, as herein alleged.

26

27

28

1 120. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of  
2 Healdsburg, California.

3  
4 121. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time,  
5 Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C.,  
6 Justin B. Myers and Does 1-100, authorized, created, published and/or distributed within  
7 California, and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page  
8 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00, entitled  
9 "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred to in this  
10 Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les Mars Hotel  
11 for \$13,500,000.00")

12  
13 122. On page eighteen (18), line thirty (30), the Defendants, Atlas Hospitality Group, Hedmark  
14 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly  
15 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or  
16 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "A great cook  
17 knows the mysterious chemistry of food but, like Keane, brings it all to bear in an effort to  
18 please." (See attached Exhibit 1, which is pp. 1, 3, 4, 17 and 18 of the Advertisement to  
19 Purchase and/or Solicitation to purchase the Les Mars Hotel for \$13,500,000.00)

20  
21 123. Plaintiff, Douglas Keane, never consented to the use of his name on page eighteen (18),  
22 line thirty (30) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars  
23 Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality Group,  
24 Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

25  
26 124. The knowing use of Douglas Keane's name on page eighteen (18), thirty (30), of the  
27 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
28 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and

1 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil Code  
2 § 3344.

3  
4 125. The knowing use of Douglas Keane's name on page eighteen (18), thirty (30), of the  
5 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
6 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
7 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly  
8 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount within the  
9 unlimited jurisdiction of the superior court as a result thereof, including but not limited to injury  
10 to reputation, humiliation, inconvenience, mental suffering, emotional distress, loss of income,  
11 attorney fees and other costs.

12  
13 126. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,  
14 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with  
15 respect to their knowing use of Douglas Keane's name without his consent and without  
16 compensating him for the use of his name on page eighteen (18), thirty (30), of the  
17 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
18 \$13,500,000.00".

19  
20 127. There was no public interest in any of the Defendants using Douglas Keane's name and/or  
21 photograph in the aforementioned advertisement; rather, it was solely for their own financial  
22 gain.

23  
24 128. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or  
25 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,  
26 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

1 129. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive  
2 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
3 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

4

5 130. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
6 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
7 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual damages  
8 suffered by him as a result of the aforementioned unauthorized use of his name on page  
9 eighteen (18), line thirty (30), of the "Advertisement to Purchase and/or Solicitation to purchase  
10 the Les Mars Hotel for \$13,500,000.00".

11

12 131. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
13 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
14 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of his  
15 name on page eighteen (18), line thirty (30), of the "Advertisement to Purchase and/or  
16 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable to  
17 the use.

18

19 132. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
20 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
21 Myers and Does 1-100, be found liable to him for attorney fees and costs.

22

23 133. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

24

25 **EIGHTH CAUSE OF ACTION**  
26 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

27 134. Plaintiff incorporates by reference paragraphs (1) through (133) as though set forth herein  
28 in full.

1  
2 135. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a  
3 California corporation, with its principal place of business located at 2500 Michelson, Suite  
4 110, Irvine, California 92612.

5  
6 136. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada  
7 limited liability company, with its principal place of business located in Sonoma County at the  
8 Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg, California.

9  
10 137. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a  
11 Nevada limited liability company, with its principal place of business located in Sonoma  
12 County at the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,  
13 California.

14  
15 138. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,  
16 who at all times pertinent to this action worked within the course and scope of his employment for  
17 Defendant, Atlas Hospitality Group.

18  
19 139. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether  
20 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time of  
21 filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will ask leave  
22 of court to amend this Complaint to show their true names or capacities when the same have been  
23 ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that each of the  
24 DOE Defendants is, in some manner, responsible for the events and happenings herein set forth and  
25 proximately caused injury and damages to him, as herein alleged.

1 140. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of  
2 Healdsburg, California.

3  
4 141. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time,  
5 Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C.,  
6 Justin B. Myers and Does 1-100, authorized, created, published and/or distributed within  
7 California, and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page  
8 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00, entitled  
9 "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred to in this  
10 Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les Mars Hotel  
11 for \$13,500,000.00")

12  
13 142. On page eighteen (18), the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
14 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly used the  
15 photograph of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or Solicitation  
16 to purchase the Les Mars Hotel for \$13,500,000.00". (See attached Exhibit 1, which is pp. 1, 3,  
17 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the Les Mars  
18 Hotel for \$13,500,000.00)

19  
20 143. Plaintiff, Douglas Keane, never consented to the use of his photograph on page eighteen  
21 (18) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
22 \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality Group, Hedmark  
23 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

24  
25 144. The knowing use of Douglas Keane's photograph on page eighteen (18) of the  
26 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
27 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
28

1 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil Code  
2 § 3344.

3  
4 145. The knowing use of Douglas Keane's photograph on page eighteen (18) of the  
5 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
6 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
7 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly  
8 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount within the  
9 unlimited jurisdiction of the superior court as a result thereof, including but not limited to injury  
10 to reputation, humiliation, inconvenience, mental suffering, emotional distress, loss of income,  
11 attorney fees and other costs.

12  
13 146. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,  
14 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with  
15 respect to their knowing use of Douglas Keane's photograph without his consent and without  
16 compensating him for the use of his photograph on page eighteen (18), of the "Advertisement to  
17 Purchase and/or Solicitation to purchase the Les Mars Hotel for \$13,500,000.00".

18  
19 147. There was no public interest in any of the Defendants using Douglas Keane's name and/or  
20 photograph in the aforementioned advertisement; rather, it was solely for their own financial  
21 gain.

22  
23 148. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or  
24 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,  
25 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

26  
27  
28

1 149. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive  
2 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
3 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

4  
5 150. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
6 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
7 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual damages  
8 suffered by him as a result of the aforementioned unauthorized use of his photograph on page  
9 eighteen (18) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars  
10 Hotel for \$13,500,000.00".

11  
12 151. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
13 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
14 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of his  
15 photograph on page eighteen (18), of the "Advertisement to Purchase and/or Solicitation to  
16 purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable to the use.

17  
18 152. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,  
19 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.  
20 Myers and Does 1-100, be found liable to him for attorney fees and costs.

21  
22 153. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

23  
24 **NINTH CAUSE OF ACTION**  
25 **(APPROPRIATION OF RIGHT OF PUBLICITY FOR COMMERCIAL PURPOSES)**

26 154. Plaintiff incorporates by reference paragraphs (1) through (153) as though set forth herein  
27 in full.  
28

1 155. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a  
2 California corporation, with its principal place of business located at 2500 Michelson, Suite  
3 110, Irvine, California 92612.

4  
5 156. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada  
6 limited liability company, with its principal place of business located in Sonoma County at the  
7 Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg, California.

8  
9 157. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a  
10 Nevada limited liability company, with its principal place of business located in Sonoma  
11 County at the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,  
12 California.

13  
14 158. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,  
15 who at all times pertinent to this action worked within the course and scope of his employment for  
16 Defendant, Atlas Hospitality Group.

17  
18 159. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether  
19 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time of  
20 filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will ask leave  
21 of court to amend this Complaint to show their true names or capacities when the same have been  
22 ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that each of the  
23 DOE Defendants is, in some manner, responsible for the events and happenings herein set forth and  
24 proximately caused injury and damages to him, as herein alleged.

1 160. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of  
2 Healdsburg, California.

3  
4 161. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time,  
5 Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C.,  
6 Justin B. Myers and Does 1-100, authorized, created, published and/or distributed within  
7 California, and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page  
8 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00, entitled  
9 "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred to in this  
10 Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les Mars Hotel  
11 for \$13,500,000.00")

12  
13 161. On page seventeen (17), line four (4), the Defendants, Atlas Hospitality Group, Hedmark  
14 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly  
15 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or  
16 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "Chef Douglas  
17 Keane (Rising Star Chef SF Chronicle 2002 and Maitre d' Nick Peyton (the godfather of white  
18 tablecloth dining" SF Chronicle 5/2/2003) offer their contemporary luxury cuisine in a  
19 completely flexible prix fixe format of three to five dishes." (See attached Exhibit 1, which is  
20 pp. 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the Les  
21 Mars Hotel for \$13,500,000.00)

22  
23 162. On page eighteen (18), line five (5), the Defendants, Atlas Hospitality Group, Hedmark  
24 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly  
25 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or  
26 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "If you want to  
27 find the next superstar chef, look no farther than Douglas Keane, who is proving his mettle each  
28 night at Cyrus in Healdsburg." (See attached Exhibit 1, which is pp. 1, 3, 4, 17 and 18 of the

1 Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
2 \$13,500,000.00)

3

4 163. On page eighteen (18), line ten (10), the Defendants, Atlas Hospitality Group, Hedmark  
5 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly  
6 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or  
7 Solicitation to purchase the Les Mars Hotel for \$13,500.000.00" as follows: "When I reviewed  
8 the restaurant a few months after it opened, it was evident that Keane was cooking at a level that  
9 put him in an elite pantheon of chefs." (See attached Exhibit 1, which is pp. 1, 3, 4, 17 and 18 of  
10 the Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for  
11 \$13,500,000.00)

12

13 164. On page eighteen (18), line twenty (20), the Defendants, Atlas Hospitality Group,  
14 Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100,  
15 knowingly used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or  
16 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "[S]urrender  
17 yourself to the masterful hands of chef Douglas Keane." (See attached Exhibit 1, which is pp. 1,  
18 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the Les Mars  
19 Hotel for \$13,500,000.00)

20

21 165. On page eighteen (18), line twenty-two (22), the Defendants, Atlas Hospitality Group,  
22 Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100,  
23 knowingly used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or  
24 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "With that  
25 introduction to Douglas Keane's seriously decadent cooking, you begin to understand why  
26 Healdsburg has become such a wine-country destination." (See attached Exhibit 1, which is pp.  
27 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the Les Mars  
28 Hotel for \$13,500,000.00)

1  
2 166. On page eighteen (18), line twenty-nine (29), the Defendants, Atlas Hospitality Group,  
3 Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Docs 1-100,  
4 knowingly used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or  
5 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "Keane proves that  
6 great cooking is foremost tasty cooking, not just wacky experiments at the guests' expense."  
7 (See attached Exhibit 1, which is pp. 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or  
8 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00)

9  
10 167. On page eighteen (18), line thirty (30), the Defendants, Atlas Hospitality Group, Hedmark  
11 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly  
12 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or  
13 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "A great cook  
14 knows the mysterious chemistry of food but, like Keane, brings it all to bear in an effort to  
15 please." (See attached Exhibit 1, which is pp. 1, 3, 4, 17 and 18 of the Advertisement to  
16 Purchase and/or Solicitation to purchase the Les Mars Hotel for \$13,500,000.00)

17  
18 168. On page eighteen (18), the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
19 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly used the  
20 photograph of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or Solicitation  
21 to purchase the Les Mars Hotel for \$13,500,000.00". (See attached Exhibit 1, which is pp. 1, 3,  
22 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the Les Mars  
23 Hotel for \$13,500,000.00)

24  
25 169. These aforementioned uses of Douglas Keane's name, image, photograph, identity and  
26 likeness constitute an appropriation of the same.

1 170. Plaintiff, Douglas Keane, was never compensated for the aforementioned appropriation of  
2 Plaintiff's name, image, photograph, identity and likeness by the Defendants.

3

4 171. Plaintiff, Douglas Keane, never consented to the aforementioned appropriation and use of  
5 his identity, name or photograph on any page of the "Advertisement to Purchase and/or  
6 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00", by anyone, including by the  
7 Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C.,  
8 Justin B. Myers and Does 1-100.

9

10 172. The aforementioned appropriation of Douglas Keane's name, image, photograph, identity  
11 and likeness was to the advantage, commercially or otherwise, of Defendants, Atlas Hospitality  
12 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-  
13 100.

14

15 173. The aforementioned appropriation of Douglas Keane's name, image, photograph, identity  
16 by Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,  
17 L.L.C., Justin B. Myers and Does 1-100, proximately caused Douglas Keane to sustain general  
18 and special damages in an amount within the unlimited jurisdiction of the superior court as a  
19 result thereof, including but not limited to injury to reputation, humiliation, inconvenience,  
20 mental suffering, emotional distress, loss of income, attorney fees and other costs.

21

22 174. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,  
23 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with  
24 respect to their knowing use of Douglas Keane's name, image, photograph, identity and likeness  
25 without his consent and without compensating him for the use of his name, image, photograph,  
26 identity and likeness in the "Advertisement to Purchase and/or Solicitation to purchase the Les  
27 Mars Hotel for \$13,500,000.00".

28

1 175. There was no public interest in any of the Defendants using Douglas Keane's name and/or  
2 photograph in the aforementioned advertisement; rather, it was solely for their own financial  
3 gain.

4  
5 176. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive  
6 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and  
7 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

8  
9 177. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

10  
11 **FIRST CAUSE OF ACTION**

12  
13 A. General damages in a sum according to proof.  
14 B. Special damages in a sum according to proof.  
15 C. Attorney fees and costs in a sum according to proof.  
16 D. Punitive and/or exemplary damages according to proof.  
17 E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and  
18 F. Costs of suit and, for such other and further relief as the court deems proper.

19  
20 **SECOND CAUSE OF ACTION**

21  
22 A. General damages in a sum according to proof.  
23 B. Special damages in a sum according to proof.  
24 C. Attorney fees and costs in a sum according to proof.  
25 D. Punitive and/or exemplary damages according to proof.  
26 E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and  
27 F. Costs of suit and, for such other and further relief as the court deems proper.

1                   THIRD CAUSE OF ACTION  
2

3                   A. General damages in a sum according to proof.  
4                   B. Special damages in a sum according to proof.  
5                   C. Attorney fees and costs in a sum according to proof.  
6                   D. Punitive and/or exemplary damages according to proof.  
7                   E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and  
8                   F. Costs of suit and, for such other and further relief as the court deems proper.

9

10                   FOURTH CAUSE OF ACTION  
11

12                   A. General damages in a sum according to proof.  
13                   B. Special damages in a sum according to proof.  
14                   C. Attorney fees and costs in a sum according to proof.  
15                   D. Punitive and/or exemplary damages according to proof.  
16                   E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and  
17                   F. Costs of suit and, for such other and further relief as the court deems proper.

18

19                   FIFTH CAUSE OF ACTION  
20

21                   A. General damages in a sum according to proof.  
22                   B. Special damages in a sum according to proof.  
23                   C. Attorney fees and costs in a sum according to proof.  
24                   D. Punitive and/or exemplary damages according to proof.  
25                   E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and  
26                   F. Costs of suit and, for such other and further relief as the court deems proper.

27

1 **SIXTH CAUSE OF ACTION**  
2

3 A. General damages in a sum according to proof.  
4 B. Special damages in a sum according to proof.  
5 C. Attorney fees and costs in a sum according to proof.  
6 D. Punitive and/or exemplary damages according to proof.  
7 E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and  
8 F. Costs of suit and, for such other and further relief as the court deems proper.

9  
10 **SEVENTH CAUSE OF ACTION**  
11

12 A. General damages in a sum according to proof.  
13 B. Special damages in a sum according to proof.  
14 C. Attorney fees and costs in a sum according to proof.  
15 D. Punitive and/or exemplary damages according to proof.  
16 E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and  
17 F. Costs of suit and, for such other and further relief as the court deems proper.

18  
19 **EIGHTH CAUSE OF ACTION**  
20

21 A. General damages in a sum according to proof.  
22 B. Special damages in a sum according to proof.  
23 C. Attorney fees and costs in a sum according to proof.  
24 D. Punitive and/or exemplary damages according to proof.  
25 E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and  
26 F. Costs of suit and, for such other and further relief as the court deems proper.

1 **NINTH CAUSE OF ACTION**  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- A. General damages in a sum according to proof.
- B. Special damages in a sum according to proof.
- C. Attorney fees and costs in a sum according to proof.
- D. Punitive and/or exemplary damages according to proof.
- E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and
- F. Costs of suit and, for such other and further relief as the court deems proper.

11/01/2007 11:37 FAX 4153985080

BRIAN

020/028

1 Dated: 10-19-20072 By: Attorney for Plaintiff3 Dated: 10/19/074 By: Attorney for Plaintiff5  
6 **VERIFICATION BY PLAINTIFF**  
78 I am a party to this action, and I have read the foregoing Complaint and know its contents. The  
9 matters stated in the Complaint are true based on my own knowledge, except as to those matters  
10 stated on information and belief, and as to those matters I believe them to be true. I declare  
11 under penalty of perjury under the laws of the State of California that the foregoing is true and  
12 correct. Executed on October 16, 2007, at Healdsburg, California.  
1314 By: BSN  
15 Plaintiff  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

11/01/2007 11:37 FAX 4153985080

BRIAN

021/028

**EXHIBIT 1**

Confidential Offering Memorandum

*Les. Hass*  
nōte

Exclusively Listed By:

**Atlas Hospitality Group**

2500 Michelson, Suite 110  
Irvine, CA 92612  
Telephone: (949) 622-3400  
Facsimile: (949) 622-3410  
Email: [info@atlashospitality.com](mailto:info@atlashospitality.com)  
Website: [www.atlashospitality.com](http://www.atlashospitality.com)

Atlas Hospitality Group

Les Mœurs Hotel  
Healdsburg, California

## Table of Contents

<b>Executive Summary</b> .....	4
<b>Investment Highlights</b> .....	5
Fact Sheet.....	10
<b>Property Description</b> .....	13
Improvements Description.....	14
Rooms.....	14
In the Press .....	15
Cyrus.....	16
<b>Healdsburg</b> .....	20
<b>Sonoma County</b> .....	24
Lodging Market.....	27
<b>Hotel Rate Comparables</b> .....	28
Local Hotel Rate Comparables Map.....	29
<b>Financial Information</b> .....	30
Income & Expense Summary.....	30
Lease Synopsis for Cyrus Restaurant.....	31
Relais & Châteaux.....	32

This information has been secured from sources we believe to be reliable, but we make no representations or warranties, expressed or implied, as to the accuracy of the information. References to square footage or age are approximate. Buyer must verify the information and bears all risk for any inaccuracies.

Les Mars Hotel  
Healdsburg, California

## Executive Summary

### Offering

Atlas Hospitality Group has been exclusively retained by Les Mars Hotel (Owner), to offer for sale the Owner's fee-simple interest in Les Mars Hotel (Property), a 16-room luxury boutique hotel with leased restaurant space in Healdsburg, California.

### Property

Reminiscent of a classic 18<sup>th</sup> century French chateau, Les Mars Hotel is a boutique hotel offering 16 guestrooms, individually designed and furnished with European 18<sup>th</sup> and 19<sup>th</sup> century antiques and hand crafted reproductions. The hotel's furnishings alone have been appraised for over \$3.7 million. The rooms feature four poster canopy beds, luxurious linens and fireplaces. The Italian marble bathrooms feature walk-in showers and hydrotherapy airjet soaking tubs. In the warmer months, guests can lounge by the pool and imported French fountain.

### Location

Les Mars Hotel is located in historic Healdsburg, California, the heart of three outstanding Sonoma County appellations: Dry Creek, Alexander and the Russian River Valleys. *The New York Times* calls Healdsburg "a destination for all things culinary." Just an hour from San Francisco, Healdsburg mixes the best qualities of turn-of-the century America with the ambience of a European countryside. Les Mars Hotel, just a block from Healdsburg's central plaza, enjoys proximity to almost 100 wineries and some of Northern California's premier dining, fine galleries, chic boutique shopping and outdoor recreational activities.

Price:	\$13,500,000
--------	--------------

### Contact

Investors seeking additional information regarding the sale of this asset should contact:



**Atlas**  
HOSPITALITY GROUP

2500 Michelson, Suite 110 Irvine, CA 92612  
Telephone: (949) 622-3400 Facsimile: (949) 622-3410  
Email: [Info@atlashospitalitygroup.com](mailto:Info@atlashospitalitygroup.com) Website: [www.atlashospitality.com](http://www.atlashospitality.com)

Les Mars Hotel  
Healdsburg, California

C Y. R. L. S

Les Mars Hotel is the home of Cyrus, the second-highest Zagat-rated restaurant in Sonoma and Napa counties, behind only Thomas Keller's renowned French Laundry.

Chef Douglas Keane (Rising Star Chef SF Chronicle 2002) and Maitre d' Nick Peyton ("the god father of white tablecloth dining" SF Chronicle 5/2/2003) offer their contemporary luxury cuisine in a completely flexible prix fixe format of three to five dishes. Sommelier Jim Rollston has assembled an extensive list of world class wines with a special focus on Sonoma appellations. The arched and vaulted dining room welcomes guests to elegant tables set with fine linens, crystal, china and silver. Guests are greeted warmly as they enter the bar while a myriad of special touches await them at the table. Warm canapés arrive to be enjoyed with a cocktail or glass of bubbly served tableside from the champagne and caviar cart. An amuse bouche is served as an extra small course to begin the meal. An extensive cheese tray adds to the temptations that await diners. Mignardises (chocolates, candied fruits and petits fours) provide a celebratory ending and a small box of bon bons is presented as a fond farewell.



Casa Madri Hotel  
Healdsburg, California

**Accolades for Cyrus:**

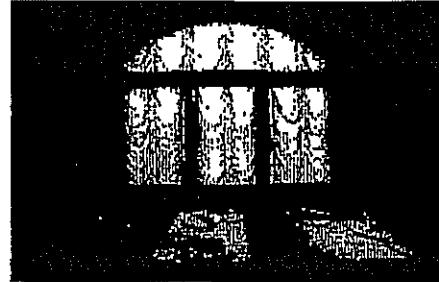
**★★★★ San Francisco Chronicle**

October 18, 2006

"If you want to find the next superstar chef, look no further than Douglas Keane, who is proving his mettle each night at Cyrus in Healdsburg. Since it opened in March 2005 the restaurant has become the premier destination in Sonoma County, with a cachet that may someday rival the French Laundry."

When I reviewed the restaurant a few months after it opened, it was evident that Keane was cooking at a level that put him in an elite pantheon of chefs. A return visit last week to try the Chef's Tasting menu made it clear that although he's still young -- just 35 -- he's no longer a chef to watch but rather one to emulate.

When you add the other elements that make up the dining experience -- impeccable service coordinated by co-owner Nick Peyton, and refined, comfortable ambience -- it's clear that Cyrus has become a four-star destination."



"A wonderful experience awaits you at Cyrus..."

"[S]urrender yourself to the masterful hands of chef Douglas Keane..."



"With that introduction to Douglas Keane's seriously decadent cooking, you begin to understand why Healdsburg has become such a wine-country destination."



"The food is spectacular, but what makes Cyrus remarkable is the entire experience.."



"Keane proves that great cooking is foremost tasty cooking, not just wacky experiments at the guests' expense. A great cook knows the mysterious chemistry of food but, like Keane, brings it all to bear in an effort to please."



"For at least a decade, the California wine-country scene could be described as Thomas Keller's French Laundry and everything else. Now Cyrus is closing that gap..."

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address)		FOR COURT USE ONLY
TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA</b> 600 ADMINISTRATION DRIVE, ROOM 107-J SANTA ROSA, CALIFORNIA 95403-2878		
PLAINTIFF/PETITIONER:		
DEFENDANT/RESPONDENT:		
<b>ADR INFORMATION SHEET</b> [Sonoma County Superior Court Rules, Rule 18]		CASE NUMBER:
(Check one): <input type="checkbox"/> <b>UNLIMITED CASE</b> (Amount demanded exceeds \$25,000)		<input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded is \$25,000 or less)
		Date: Time: Location: Assigned Judge:

#### NOTICE TO ALL PARTIES AND THEIR ATTORNEYS

The policy of the Sonoma County Superior Court is:

"The formal litigation of legal claims and disputes is expensive and time consuming. The overall results achieved by some or all of the parties are often unsatisfactory. There are many modern alternatives to formal court litigation which are less expensive, less time consuming, and more beneficial to the parties. It is therefore the firm policy and goal of this court to encourage the parties in all civil cases to explore and pursue private dispute resolution alternatives at the earliest possible date." (Local Rule 16.1.)

Although most (90-98%) cases do settle, many settlements come only after a considerable amount of time, money, and resources have been expended. Such expenditures, as well as the adversarial nature of litigation, can be a disincentive to settlement. The Sonoma County Superior Court encourages the use of Alternative Dispute Resolution (ADR) as early as possible after the parties become aware of a dispute.

Most ADR processes are voluntary and are paid for by the parties themselves, but ADR has proved in many cases to be faster, cheaper, and more effective than traditional litigation.

#### ADVANTAGES OF ADR:

The filing of your complaint or answer may be just the beginning of the costs that you will incur during the course of your lawsuit. Lawsuits can be extremely costly. By utilizing ADR methods early in the course of your case, you may significantly reduce these costs by either resolving the case before expensive discovery and trial proceedings are commenced or by narrowing the scope of your discovery by identifying disputed and undisputed factual and legal issues.

ADR can be a fast, economical, efficient, and effective way to resolve civil cases, and most litigants report satisfaction with the process. ADR procedures can be scheduled at your convenience and can be completed in a fraction of the time required for traditional litigation. The cost of ADR will depend on the procedure and the provider you select, and the cost is typically less than litigation.

Most ADR processes are confidential but can result in enforceable agreements. Many ADR processes will give you an opportunity to test the strengths and weaknesses of your case without adverse impact in the event of a trial. Depending upon the method of ADR you select, it may be the last chance for you to control the outcome of your dispute before you place the decision in the hands of a judge or jury.

#### METHODS OF ADR:

**A. MEDIATION:** Mediation is one of the most frequently used methods of ADR because it is informal, quick, convenient and confidential. In this process the parties select a neutral mediator who facilitates the identification of issues and areas of agreement and assists in finding a resolution or settlement of the dispute. Since mediation requires the agreement of the parties to resolve the matter, control of the proceedings and a determination of the settlement terms remains completely in the parties' hands. The mediator remains neutral and assists the parties in arriving at terms that are mutually agreeable.

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

**B. ARBITRATION:** The parties jointly employ a neutral third party or a panel of neutrals to listen to both sides and render a decision. The parties are free to make the arbitrator's decision binding or non-binding. When non-binding, the arbitrator's decision serves as guide or influence upon the parties to bring them closer to settlement. If it is binding, the decision of the arbitrator will be final and generally avoids any further proceedings in the case. Non-binding judicial arbitration may be ordered in certain cases before trial.

**C. EARLY NEUTRAL EVALUATION:** A neutral evaluator is hired by the parties to give an evaluation of the case to help settle it. You or your attorney will be permitted to prepare a written statement, present critical witnesses or other evidence, argue your case to the evaluator, meet separately and confidentially with the evaluator, and utilize the evaluator to communicate any settlement offers to the opposing party.

**D. PRIVATE SETTLEMENT CONFERENCE:** A voluntary settlement conference is similar to early neutral evaluation in that the parties employ a neutral settlement officer who attempts to persuade the parties to accept a compromise position. It is a form of facilitated negotiation in which the settlement officer may express an opinion about the value of the case, the substantive merits of each party's position, and the probable outcome of the trial.

There are various other methods or combinations of methods of ADR, such as summary jury trial, mini-trial, special master and discovery referee. The court encourages the parties to be creative in selecting the process which has the best chance of resolving the case as quickly, effectively, and inexpensively as possible. You will have a chance to review your ADR options at the time of the Early Mediation and Case Management Conference.

The undersigned party is willing to agree to any of the following forms of ADR at this time (for family law and probate actions only). Your selection will inform the other parties in the case of your current thoughts regarding the use of ADR. If all parties agree on a particular ADR method, you will be asked to file a stipulation on the court's form. The stipulation form (Sonoma County Superior Court form #MISC-101) can be found at the court's web site and is available at the court.)

<input type="checkbox"/> Mediation	<input type="checkbox"/> Early Neutral Evaluation
<input type="checkbox"/> Non-binding Private Arbitration	<input type="checkbox"/> Binding Private Arbitration
<input type="checkbox"/> Voluntary Settlement Conference	<input type="checkbox"/> Summary Jury Trial
<input type="checkbox"/> Other _____	<input type="checkbox"/> Judicial Arbitration

I / We certify that I / We have read and understood (or have had explained to me / us) the foregoing.

Date: \_\_\_\_\_

Signature of Party

Date: \_\_\_\_\_

Signature of Party

Date: \_\_\_\_\_

Signature of Attorney for Party

Additional signatures are attached

**NOTE: This form requires the signatures of the parties and their attorney. All parties must complete, file and serve this form in accordance with Sonoma County Superior Court Rules, Rule 16. See Rule 16.3 for specific filing and service instructions.**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address)		FOR COURT USE ONLY
TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FAX NO. (Optional):
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA 800 ADMINISTRATION DRIVE, ROOM 107-J SANTA ROSA, CALIFORNIA 95403-2878		
PLAINTIFF/PETITIONER:		
DEFENDANT/RESPONDENT:		
STIPULATION AND ORDER REFERRING MATTER TO ALTERNATIVE DISPUTE RESOLUTION		CASE NUMBER:
(Check one): <input type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)		Date: Time: Location: Assigned Judge:

The parties hereby stipulate to refer the case to the following Alternate Dispute Resolution Process:

<input type="checkbox"/> Mediation	<input type="checkbox"/> Non-binding Private Arbitration
<input type="checkbox"/> Binding Private Arbitration	<input type="checkbox"/> Private Settlement Conference
<input type="checkbox"/> Early Neutral Evaluation	<input type="checkbox"/> Judicial Arbitration

The ADR process will be conducted by (name of individual): \_\_\_\_\_

Provider's Address: \_\_\_\_\_

Provider's Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail address: \_\_\_\_\_

The ADR process will be conducted on (date): \_\_\_\_\_

No agreement

The parties have reached agreement as to the payment of fees of ADR provider.  
 The parties have not reached agreement as to the payment of fees of ADR provider.

Type or print name of  Party without attorney  Attorney for  
 Plaintiff/Petitioner  Defendant/Respondent/Contestant

(Date and Sign) Attorney or party without attorney (Sign in blue ink)

Type or print name of  Party without attorney  Attorney for  
 Plaintiff/Petitioner  Defendant/Respondent/Contestant

(Date and Sign) Attorney or party without attorney (Sign in blue ink)

Additional signatures are attached

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

**ORDER****A REVIEW HEARING IS SCHEDULED AS FOLLOWS:**

---

Date

Time

All parties must appear at the Review Hearing. In the event that the case is settled and a dismissal, a notice of settlement or a judgment is filed at least 3 court days before the scheduled Review Hearing, the Review Hearing will be dropped and no one should appear. You must check the phone message at \_\_\_\_\_ or go to <http://www.SonomaSuperiorCourt.com/tentative/Index.html> where the tentative dispositions will be posted the day before you are scheduled to come to court to determine if you must appear.

**THE FIRST ATTORNEY OR PARTY LISTED MUST FILE PROOF OF SERVICE OF A COPY OF THIS ORDER ON ALL PARTIES.**

---

Date

JUDGE OF THE SUPERIOR COURT

**NOTICE****SONOMA COUNTY SUPERIOR COURT  
CIVIL DIVISION PRO TEM JUDGE PROGRAM**

This is to advise that the Civil Division's Pro Tem Judge Program is available to those civil litigants who wish to expedite trial by stipulating to the use of an attorney to serve as Pro Tem Judge. The court maintains a Pro Tem Judge panel, which consists of attorneys sworn by the Court and willing to serve in this capacity. Parties may stipulate to a trial by a Pro Tem Judge of their choice and may inform the Court of such a stipulation by contacting Connie Origer, the Pro Tem Judge Program Coordinator, at (707) 565-6430.

The Program offers three primary benefits to litigants: (1) the date and location of trial can often be scheduled by stipulation of the parties; (2) the trial will take place on the agreed date for trial, thus eliminating the need to trail other cases, and; (3) the trial can be scheduled for full days on a 5 day per week basis, thus shortening the time to try the case. The Program is available for both jury and court trials.

For cases that are tried in 5 days or less (9:00 a.m. to 5:00 p.m., jury or non-jury), the Pro Tem Judge serves at no cost to the parties. For trials that exceed 5 days in length, the parties and the Pro Tem Judge are obliged to agree to a daily fee, not to exceed \$1,200 per day, for each full or partial day of trial beginning with the 6<sup>th</sup> day of trial. Additionally, the Court will charge the parties \$656.72 for each day of trial for the Clerk and Court Reporter. The Court discourages the use of overtime and will charge an additional cost of \$123.14 for each hour or portion thereof exceeding 8 hours in any day. The parties are also responsible for the payment of jury fees as in any other civil case. Cases in which there are fee waivers are eligible for the Program.

The Court is enthusiastic about this Program and urges all counsel to discuss the availability of the Program and the feasibility of its use with opposing counsel. Counsel must also obtain permission from clients to participation in the Program. To participate in the Program, contact Ms. Origer as soon as possible to discuss trial dates. Ms. Origer will generate and mail all required stipulations and orders with respect to the Program. Parties may obtain additional information on this program by contacting Ms. Origer or by reviewing the court's website at [www.sonomasuperiorcourt.com](http://www.sonomasuperiorcourt.com).

Plaintiff is ordered to serve this Notice on all parties and to certify by proof of service filed with the Court that such service has been accomplished within 60 days of the filing of the Complaint.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name & Address):		FOR COURT USE ONLY
Telephone No.:	FAX No.:	
ATTORNEY FOR (Name):	Bar No.:	
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA</b> 600 Administration Drive Santa Rosa, CA 95403 Telephone: (707) 521-6500		
PLAINTIFF(S)/PETITIONER(S):		
DEFENDANT(S)/RESPONDENT(S):		CASE NUMBER:

**NOTICE OF SELECTION AS MEDIATOR IN COURT-CONNECTED MEDIATION**  
(Sonoma County Superior Court Local Rule 16)

Name of Mediator Selected: \_\_\_\_\_

**PLEASE TAKE NOTICE** that the above-referenced matter is subject to Sonoma County Superior Court Local Rule 16 (Rules Applicable to Alternative Dispute Resolution (ADR)). The parties have selected you to serve as the mediator in this matter. Sonoma County Superior Court has a voluntary, market rate mediation program. All mediations conducted in cases covered by Local Rule 16 are court-connected mediations and are subject to the provisions of California Rules of Court, Rules 3.850 et seq. It is your obligation to familiarize yourself with Local Rule 16 and California Rules of Court, Rules 3.850 et seq. before the mediation. **PLEASE NOTE:** you are required to have the parties complete an Attendance Sheet for Court-Program Mediation of Civil Case (Alternative Dispute Resolution) (Judicial Council form ADR-107) in accordance with California Rules of Court Rule 3.860. The form is available at the web site of the California Courts [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov).

If you are not a member of the Sonoma County Superior Court panel of mediators, in order to serve as mediator in this case, you must complete the acceptance below (see CRC Rule 3.851(a) (2)), sign it in the space provided, and file the completed Notice with your *original signature* with the Court not less than five days before commencement of the mediation. Please also provide a courtesy copy of the completed and signed Notice to the ADR Program Coordinator, 1450 Guerneville Road, Building G, Santa Rosa, California 95403 or by facsimile transmission to (707) 565-7059.

If you are mediating a case referred to court-connected mediation during calendar year 2007, regardless of the date of the mediation, you are required to complete and return a Mediator's Questionnaire (Sonoma County Superior Court Local form CV-36) within five (5) days after completion or other termination of the mediation. The completed questionnaire may be mailed or faxed to ADR Program Coordinator at the above address or FAX number. The plaintiff should provide the Mediator's Questionnaire to you. The questionnaire is also available on the web site of the Sonoma County Superior Court [www.sonomasuperiorcourt.com](http://www.sonomasuperiorcourt.com).

If you have any questions regarding your selection or service as a mediator in this matter or about the Sonoma County Superior Court ADR Program, please feel free to contact the ADR Program Coordinator at (707) 565-7000 or [ADR@sonomacourt.org](mailto:ADR@sonomacourt.org).

**MEDIATOR'S ACCEPTANCE**

I, \_\_\_\_\_, hereby agree to mediate the above-captioned matter subject to the conditions stated in this notice.

Dated: \_\_\_\_\_ (Mediator's Signature)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA CIVIL DIVISION 600 ADMINISTRATION DRIVE, ROOM 107-J SANTA ROSA, CALIFORNIA 95403-2878 (707) 521-6500 www.sonomasuperiorcourt.com	(FOR COURT USE ONLY)  <b>ENDORSED FILED</b> <b>OCT 22 2007</b> SUPERIOR COURT OF CALIFORNIA COUNTY OF SONOMA
<b>NOTICE OF ASSIGNMENT TO ONE JUDGE FOR ALL PURPOSES, NOTICE OF CASE MANAGEMENT CONFERENCE, and ORDER TO SHOW CAUSE</b> <input type="checkbox"/> Collections (see footnote)	Case number <b>SC 241706</b>

**A COPY OF THIS NOTICE MUST BE SERVED WITH THE SUMMONS AND COMPLAINT  
AND WITH ANY CROSS-COMPLAINT**

MARK TANSIL

**1. THIS ACTION IS ASSIGNED TO HON. \_\_\_\_\_ FOR ALL PURPOSES.**

Pursuant to California Rules of Court, Rule 2.111(7), the assigned judge's name must appear below the number of the case and the nature of the paper on the first page of each paper presented for filing.

**2. A Case Management Conference has been set at the time and place indicated below:**

Date:	Time:	Courtroom:
Location: <b>FEB 25 2008</b>	<b>1450 Guerneville Road Santa Rosa, CA 95403</b>	<b>9:00 am</b>

- No later than 15 calendar days before the date set for the case management conference or review, each party must file a case management statement [Judicial Council form #CM-110] and serve it on all other parties in the case. In lieu of each party's filing a separate case management statement, any two or more parties may file a joint statement.
- At the conference, counsel for each party and each self-represented party must appear personally or by telephone [California Rules of Court, Rule 3.670(c)(2)]; must be familiar with the case; and must be prepared to discuss and commit to the party's position on the issues listed in California Rules of Court, Rule 3.727.
- Pre-approved dispositions are recorded three (3) court days prior to the case management conference. These may be obtained by calling (707) 521-6883 or by going to <http://www.sonomasuperiorcourt.com/tentative/index.php>.

**ORDER TO SHOW CAUSE**

To Plaintiff(s), Cross-complainants, and/or their attorneys of record:

If, on the date shown above, you are not in compliance with timely filing requirements stated in California Rules of Court, Rules 3.110 and/or 3.725, you must then and there show cause why this Court should not impose monetary and/or terminating sanctions.

**Telephone appearances are not allowed. Case Management Conferences in Collections cases incorporate a settlement conference. Counsel/parties with settlement authority are required to appear in person.**

CM-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number and address)		FOR COURT USE ONLY
TELEPHONE NO E-MAIL ADDRESS (Optional) ATTORNEY FOR (Name)		
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME		
<b>PLAINTIFF/PETITIONER:</b> <b>DEFENDANT/RESPONDENT:</b>		
<b>CASE MANAGEMENT STATEMENT</b> (Check one): <input type="checkbox"/> <b>UNLIMITED CASE</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded is \$25,000 or less)		CASE NUMBER:

A CASE MANAGEMENT CONFERENCE is scheduled as follows:

Date:

Time:

Dept.:

Div.:

Room:

Address of court (if different from the address above):

**INSTRUCTIONS:** All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
  - a.  This statement is submitted by party (name):
  - b.  This statement is submitted jointly by parties (names):
2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
  - a. The complaint was filed on (date):
  - b.  The cross-complaint, if any, was filed on (date):
3. **Service (to be answered by plaintiffs and cross-complainants only)**
  - a.  All parties named in the complaint and cross-complaint have been served, or have appeared, or have been dismissed.
  - b.  The following parties named in the complaint or cross-complaint
    - (1)  have not been served (specify names and explain why not):
    - (2)  have been served but have not appeared and have not been dismissed (specify names):
    - (3)  have had a default entered against them (specify names):
  - c.  The following additional parties may be added (specify names, nature of involvement in case, and the date by which they may be served):
4. **Description of case**
  - a. Type of case is  complaint  cross-complaint (describe, including causes of action):

PLAINTIFF/PETITIONER:	CM-110
DEFENDANT/RESPONDENT:	CASE NUMBER:

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request  a jury trial  a nonjury trial (if more than one party, provide the name of each party requesting a jury trial):

6. Trial date

- a.  The trial has been set for (date):
- b.  No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):
- c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

- a.  days (specify number):
- b.  hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial  by the attorney or party listed in the caption  by the following:

- a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

e. Fax number:

f. E-mail address:

g. Party represented:

Additional representation is described in Attachment 8.

9. Preference

This case is entitled to preference (specify code section):

10. Alternative Dispute Resolution (ADR)

- a. Counsel  has  has not provided the ADR information package identified in rule 3.221 to the client and has reviewed ADR options with the client.
- b.  All parties have agreed to a form of ADR. ADR will be completed by (date):
- c.  The case has gone to an ADR process (indicate status):

CM-110

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

## 10. d. The party or parties are willing to participate in (check all that apply):

(1)  Mediation  
 (2)  Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 3.822)  
 (3)  Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 3.822)  
 (4)  Binding judicial arbitration  
 (5)  Binding private arbitration  
 (6)  Neutral case evaluation  
 (7)  Other (specify):

e.  This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.f.  Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.g.  This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court (specify exemption):

## 11. Settlement conference

 The party or parties are willing to participate in an early settlement conference (specify when):

## 12. Insurance

a.  Insurance carrier, if any, for party filing this statement (name):  
 b. Reservation of rights:  Yes  No  
 c.  Coverage issues will significantly affect resolution of this case (explain):

## 13. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.

 Bankruptcy  Other (specify):

Status:

## 14. Related cases, consolidation, and coordination

a.  There are companion, underlying, or related cases.  
 (1) Name of case:  
 (2) Name of court:  
 (3) Case number:  
 (4) Status:  
 Additional cases are described in Attachment 14a.  
 b.  A motion to  consolidate  coordinate will be filed by (name party):

## 15. Bifurcation

 The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

## 16. Other motions

 The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):

CM-110

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

17. **Discovery**

a.  The party or parties have completed all discovery.  
 b.  The following discovery will be completed by the date specified (describe all anticipated discovery):

<u>Party</u>	<u>Description</u>	<u>Date</u>
--------------	--------------------	-------------

c.  The following discovery issues are anticipated (specify):

18. **Economic Litigation**

a.  This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.  
 b.  This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

19. **Other issues**

The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

20. **Meet and confer**

a.  The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):

b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

21. **Case management orders**

Previous case management orders in this case are (check one):  none  attached as Attachment 21.

## 22. Total number of pages attached (if any): \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached

11/01/2007 11:29 FAX 4153985080

BRIAN

015/015

10/18/2007 14:18 FAX 4153985080

BRIAN

004/004

**SUMMONS**  
**(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:**  
**(AVISO AL DEMANDADO):**

Atlas Hospitality Group, Hedmark VIII, L.L.C., Westland Financial III, L.L.C., Justin B. Myers and Docs 1-100

**YOU ARE BEING SUED BY PLAINTIFF:**  
**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**  
Douglas Keane

SUM-100  
FOR COURT USE ONLY  
PARA USO DE LA CORTE

**ENDORSED**  
**FILED**

OCT 22 2007

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SONOMA

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/shelp](http://www.courtinfo.ca.gov/shelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/shelp](http://www.courtinfo.ca.gov/shelp)), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de los Juzgados de California ([www.courtinfo.ca.gov/shelp/prespanish](http://www.courtinfo.ca.gov/shelp/prespanish)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia. Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de los Juzgados de California, ([www.courtinfo.ca.gov/shelp/prespanish](http://www.courtinfo.ca.gov/shelp/prespanish)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

Sonoma Co, County Superior Court, 600 Administration Drive, Santa Rosa, CA 95403

CASE NUMBER  
Número de Caso  
**5C1  
241706**

The name, address and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado es):  
Christopher Keane-Brian Larsen, 530 Jackson St., 2nd Floor, San Francisco, CA 94133 (415) 398-2777

DENISE L. GORDON

DATE (Fecha) **OCT 22 2007**

Clerk, by KIM MURPHY, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (Form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010))

NOTICE TO THE PERSON SERVED: You are served

1  as an individual defendant.  
2  as the person sued under the fictitious name of (specify).

3.  on behalf of (specify): **Hedmark VIII, LLC**

under:  CCP 416.10 (corporation)  
 CCP 416.20 (defunct corporation)  
 CCP 416.40 (association or partnership)  
 other (specify): **A Limited Liability Corporation**

4  by personal delivery on (date)

Form Approved for Multijurisdictional Use  
Superior Court of California  
Rev. 12/02 (Rev. 1/2004)

SUMMONS

Page 1 of 1  
Cost of Oral Proceedings \$5 412.20.455  
AMERICAN LEGAL INC. [www.legalinc.com](http://www.legalinc.com)

112189161851707201189911280.04 PM

EXHIBIT B